

Coast Guard, DHS

§ 137.25

public thoroughfare separating the properties.

Data gap means a lack of, or inability to, obtain information required by subpart B of this part despite good faith efforts by the environmental professional or persons specified in §137.1(a), as appropriate, to gather the information under §137.33.

Environmental professional means an individual who meets the requirements of § 137.25.

Facility means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

Good faith means the absence of any intention to seek an unfair advantage or to defraud another party; an honest and sincere intention to fulfill one's obligations in the conduct or transaction concerned.

Institutional controls means non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to oil discharge and/or protect the integrity of a removal action.

Relevant experience means participation in the performance of all-appropriate-inquiries investigations, environmental site assessments, or other site investigations that may include environmental analyses, investigations, and remediation which involve the understanding of surface and subsurface environmental conditions and the processes used to evaluate these conditions and for which professional judgment was used to develop opinions regarding conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located.

§ 137.15 References: Where can I get a copy of the publication mentioned in this part?

Section 137.20 of this part refers to ASTM E 1527-05, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. That document is avail-

able from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959. It is also available for inspection at the Coast Guard National Pollution Funds Center, Law Library, 4200 Wilson Boulevard, Suite 1000, Arlington, VA.

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Subpart B—Standards and Practices

§ 137.18 Duties of persons specified in §137.1(a).

In order to make all appropriate inquiries, persons seeking to establish the liability protection under §137.1(a) must conduct the inquiries and investigations as required in this part and ensure that the inquiries and investigations required to be made by environmental professionals are made.

§ 137.20 May industry standards be used to comply with this regulation?

The industry standards in ASTM E 1527-05, (Referenced in §137.15) may be used to comply with the requirements set forth in §§137.45 through 137.85 of this part. Use of ASTM E 1527-05 for this purpose is optional and not mandatory.

§ 137.25 Qualifications of the environmental professional.

(a) An environmental professional is an individual who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of the presence or likely presence of oil at a facility and the real property on which the facility is located sufficient to meet the objectives and performance factors in §137.30(a) and (b).

(1) Such a person must—

(i) Hold a current Professional Engineer's or Professional Geologist's license or registration from a State, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) and have the equivalent of 3 years of full-time relevant experience;

(ii) Be licensed or certified by the Federal government, a State, tribe, or U.S. territory (or the Commonwealth